

FILED
PAIGE TRAUTWEIN, CLERK

AUG 15 2013
[Signature]
DEPUTY

MONTANA TWENTY-FIRST JUDICIAL DISTRICT COURT, RAVALLI COUNTY

STATE OF MONTANA,

Plaintiff,

vs.

HARRIS HIMES,

Defendant.

Cause No. DC-11-117/145

**ORDER DENYING MOTION
TO OBTAIN RECORDS
FROM VETERANS ADMINISTRATION
AND FOR LEAVE TO FILE
DEMONSTRATION OF CAUSE
EX-PARTE UNDER SEAL**

Defendant, through counsel, moved to obtain financial data regarding alleged victim Geoffrey Serata from the Veteran's Administration. He asserts that the federal government will not respond to his subpoena and requires an order from the Court to obtain information which he seeks. He acknowledges that no such process exists in the State of Montana, but argues that it should be allowed in this instance because his requested procedure is allowed by federal law in federal courts. He argues that he should be allowed to proceed *ex-parte* so that he is not required to expose trial strategy.

The State argues that Montana law does not allow for *ex-parte* communication. The State relies generally upon the reciprocal nature of discovery in the State of Montana and Section 46-15-323 MCA. The State also argues that the requested information is irrelevant and will be used only to "harass" Mr. Serata.

Defendant's reliance upon law which is applicable in another jurisdiction but not in the State of Montana is unpersuasive. The law in Montana requires reciprocal disclosure of information.

1 It is difficult to perceive how financial data about a victim would be probative in evaluating
2 Defendant's conduct regarding alleged security related crimes.

3 The parties stipulated on February 21, 2013 that all pretrial matters had been submitted to
4 the Court. The motion is untimely.

5 Defendant has requested a federal bureaucracy to produce five years of records at what is now
6 approximately one month before trial. The likelihood that such records would be produced in time
7 for the parties to analyze them for use at trial is remote.

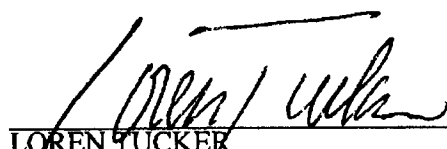
8 The motion should be denied.

9 NOW THEREFORE, IT IS HEREBY ORDERED as follows:

10 1. Defendant's Motion for Order to Obtain Records from Veterans Administration and Leave
11 to File, Ex Parte and under Seal, Documents in Support of Motion is denied.

12 2. The Clerk of Court will please file this Order and distribute a copy to the parties.

13 Dated: August 13, 2013.

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16 LOREN TUCKER
17 District Judge
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